

# THE FINANCIAL SERVICES ROUNDTABLE

## *Financing America's Economy*



Via Electronic Submission

August 10, 2012

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street & Constitution Avenue NW.  
Washington, DC 20551

**Re: Proposed Agency Information Collection Activities; Comment Request**

**File Number: FR Doc. 2012-14036**

Ladies and Gentlemen:

The Financial Services Roundtable<sup>1</sup> (the “Roundtable”) welcomes the opportunity to provide the Board of Governors of the Federal Reserve System (the “Board”) with comments on the proposed collection of information (the “Comment Request”) that would revise the FR Y-10, FR Y-10 verification, FR Y-6 and FR Y-7 reporting forms.<sup>2</sup>

### **I. General Comments**

In the Comment Request, the Board proposes *inter alia* to revise the FR Y-6 and FR Y-10 reporting forms and instructions to expand the entities that must report to include nonbank financial companies supervised by the Board and savings and loan holding companies (“SLHCs”), among other entities. The proposed changes to the FR Y-6 reporting form and instructions would become effective with fiscal year-end beginning December 31, 2012. The proposed changes to the FR Y-10 reporting form and instructions would become effective December 1, 2012. The Board also proposes to collect a one-time verification of an SLHC’s organizational structure as a supplement to the FR Y-10, derived from the Federal Reserve’s national information database. This

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<sup>1</sup> The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America’s economic engine, accounting directly for \$92.7 trillion in managed assets, \$1.2 trillion in revenue, and 2.3 million jobs.

<sup>2</sup> Proposed Agency Information Collection Activities; Comment Request, 77 Fed. Reg. 34,384 (June 11, 2012).

verification process would require SLHCs to annotate data provided by the Board; SLHCs would have thirty days to annotate the data after they are provided by the Board. This verification is intended to allow the Board to establish baseline information before SLHCs become subject to FR Y-10 event-generated reporting.

As we have noted in previous comments to the Board,<sup>3</sup> we believe the Board should take a measured approach towards its new supervisory responsibilities with respect to SLHCs. This measured approach is particularly appropriate in the context of the development of a new disclosure and reporting regime for SLHCs. We believe the Board should utilize its supervisory authority to establish a tailored disclosure and reporting regime for SLHCs based on the business models, asset-liability structures and risk profiles of SLHCs themselves. In particular, the Board should establish a reporting and disclosure regime for SLHCs that takes appropriate account of the fact that SLHCs have significantly different operational profiles and mixes of activities than many “traditional” bank holding companies (“BHCs”). SLHCs engage in a wider variety of non-banking and non-financial activities than traditional BHCs, and as a result differ in their overall structures as compared to traditional BHCs, especially with respect to nonbanking subsidiaries. We ask the Board to consider our comments in light of these differences, and recognize that such differences require that the Board provide SLHCs with sufficient time to design, build and implement the significant new systems required to submit forms like the FR Y-6 and FR Y-10, which were specifically designed with traditional BHCs in mind.

We offer specific comments on the Comment Request below.

## **II. Timing – A “Staged” Approach for Implementation of FR Y-6 & FR Y-10**

As noted, the Comment Request would require SLHCs to submit the FR Y-6 report beginning with the fiscal year ending December 31, 2012. Under the proposed implementation timeline, it appears that SLHCs might be required to submit the one-time verification of an SLHC’s organizational structure as a supplement to the FR Y-10 *before* the FR Y-6, a form that must be submitted annually after the end of the SLHC’s fiscal year. The proposed implementation timeline therefore would require an SLHC to complete the detailed and comprehensive structural analysis required to submit the one-time verification as a supplement to an FR Y-10 filing before it would complete the “baseline” structural analysis for purposes of the FR Y-6. We believe this proposed

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<sup>3</sup> See Letter from the Roundtable, to the Board (Apr. 11, 2011), available at [http://www.fsround.org/fsr/policy\\_issues/regulatory/pdfs/pdfs11/FINAL-CommentLetteronSLHCtoBHCReporting4.11.11.pdf](http://www.fsround.org/fsr/policy_issues/regulatory/pdfs/pdfs11/FINAL-CommentLetteronSLHCtoBHCReporting4.11.11.pdf); Letter from the Roundtable, to the Board (May 23, 2011), available at [http://www.fsround.org/fsr/policy\\_issues/regulatory/pdfs/pdfs11/FINAL-FSRCommentLetteronSLHC5.23.11.pdf](http://www.fsround.org/fsr/policy_issues/regulatory/pdfs/pdfs11/FINAL-FSRCommentLetteronSLHC5.23.11.pdf); Letter from the Roundtable and the American Bankers Association, to the Board (Nov. 1, 2011), available at [http://www.fsround.org/fsr/policy\\_issues/regulatory/pdfs/pdfs11/RoundtableABAComment-ProposedNewInformationCollectionforSLHCs11-1-11.pdf](http://www.fsround.org/fsr/policy_issues/regulatory/pdfs/pdfs11/RoundtableABAComment-ProposedNewInformationCollectionforSLHCs11-1-11.pdf).

timeline would put the “cart before the horse,” in that it would require an SLHC to submit a verification form for which comprehensive knowledge of the organization’s structure is a necessary pre-condition (the one-time verification as a supplement to an FR Y-10) before completing an initial assessment of its organizational structure for purposes of the first annual organizational chart filing (the FR Y-6). As the Board is aware, many SLHCs are currently conducting comprehensive analyses of their organizational structures for purposes of initial FR Y-6 filings, and had planned to complete the preliminary analyses to coincide with the deadline for the initial filing of the FR Y-6, *e.g.* March 31, 2013 for SLHCs whose fiscal year ends December 31. In effect, the proposed timeline for Y-10 reporting and the one-time verification significantly and unexpectedly accelerates the deadline for completing an SLHC’s Y-6 organizational analysis. Many SLHCs will likely not have completed the preliminary structural analysis that is necessary for the one-time verification before year-end at the earliest.

Moreover, the comprehensive organizational chart required under the FR Y-6 report will itself present significant challenges for many SLHCs. Thus, we request that the Board pursue a staged approach to implementation of the FR Y-6 and FR Y-10 reporting requirements. As the initial stage in this approach, SLHCs would submit their first FR Y-6 report with a preliminary organizational chart, focusing on subsidiaries that are required to file the FR Y-11 report (in the case of a nonbank subsidiary) or the FR 2314 report (in the case of a foreign subsidiary) but including on a “best efforts” basis all legal entities that have been determined by the SLHC to be in-scope for FR Y-6 organizational chart reporting requirements. As the second stage, once the SLHC has filed its Y-6, SLHCs would submit their first FR Y-10 report, with a focus on subsidiaries that are required to file the FR Y-11 or FR 2314 on a quarterly basis (*i.e.*, entities with \$1 billion or more in assets). As the third stage, SLHCs would begin filing Y-10 reports on subsidiaries required to file the FR Y-11 or FR 2314 on an annual basis (*i.e.*, entities with \$250 million or more in assets) in addition to those subsidiaries required to file the FR Y-11 or FR 2314 report on a quarterly basis. This staged approach to implementation would take appropriate account of the fact that SLHCs are conducting comprehensive analyses of their organizational structure for Board reporting purposes for the first time, and would also take appropriate account of the fact that SLHCs have significant variations among their nonbank and foreign subsidiaries as compared to traditional BHCs.

### **III. Exemption for Reporting by Grandfathered Savings and Loan Holding Companies Must be Clarified**

Subsections 10(c)(3) and 10(c)(9)(C) of the Home Owners Loan Act (“HOLA”) provide for a statutory scheme whereby SLHCs that only controlled, or were in the process of acquiring, one savings association at the time of the passage of the Gramm-Leach-Bliley Act and that meet certain other criteria (“Grandfathered Unitary SLHCs”) are not subject to any activity restrictions under HOLA. Section 606(b) of the Dodd-

Frank Act (amending section 10(c)(2)(H) of HOLA) establishes new requirements that condition the authority of *non*-Grandfathered Unitary SLHCs to engage in certain financial activities, but *does not* alter the authority of Grandfathered Unitary SLHCs to engage in a full range of activities, including commercial and financial activities. The Board explicitly recognized this in its Regulation LL governing SLHCs, stating that section 606(b) “should not be interpreted to modify the exemption [for Grandfathered Unitary SLHCs].”<sup>4</sup>

We believe that the necessary implications of the continuing exemption for Grandfathered Unitary SLHCs should be more clearly reflected in the instructions to the FR Y-10 report for SLHCs. We appreciate that the Specific Instructions for the 4(k) Schedule expressly provide that the reporting requirements of the FR Y-10 apply only to activities conducted under the authority of section 10(c)(2)(H) of HOLA. As noted above, section 10(c)(2)(H) applies only to *non*-Grandfathered Unitary SLHCs. Thus, the instructions for the 4(k) Schedule appropriately relate its reporting requirements only to *non*-Grandfathered Unitary SLHCs. This same approach is reflected in the Instructions for Preparation of Report of Changes in Organizational Structure (*e.g.*, page GEN-3). However, at other points in the Instructions an ambiguity is created by more general references to the reporting of “changes in the principal activities of a Savings and Loan Company” and “changes in the principal activities of a Nonbanking Company” (*e.g.*, page GEN-2). The latter references could be read to require reporting as to changes in principal activities (including commercial activities) of a Nonbanking Company subsidiary of a Grandfathered Unitary SLHC. We do not believe that HOLA provides the authority to require such reporting by a Grandfathered Unitary SLHC because a Grandfathered Unitary SLHC is not conducting any of its current or future activities in reliance on section 10(c)(2)(H) of HOLA. We request that the Board conform the general references in the instructions to the Specific Instructions for the 4(k) Schedule to reflect the narrow scope of the FR Y-10 reporting requirements as applied to Grandfathered Unitary SLHCs.

#### **IV. Clarification that Intermediate Holding Companies Report for Grandfathered Unitary SLHCs**

Section 626 of the Dodd-Frank Act amends HOLA and authorizes the Board to require Grandfathered Unitary SLHCs to form IHCs to conduct certain of the SLHC’s financial activities when the creation of an IHC would ensure that the Board’s supervision would not extend to the non-financial activities of the SLHC. Although the Dodd-Frank Act directs the Board to promulgate rules to implement the IHC provisions of section 626, the Board has not yet proposed such rules.

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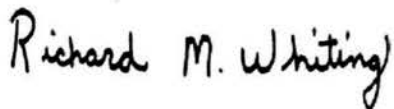
<sup>4</sup> 76 Fed. Reg. 56,510, fn. 13.



The Comment Request does not indicate whether and to what extent an SLHC that forms an IHC pursuant to section 626 will be required to submit the FR Y-6 and FR Y-10 reports to the Board. In this regard, we note that section 626 provides that if a Grandfathered Unitary SLHC establishes an IHC, the IHC shall be an SLHC for purposes of HOLA. We further note that section 604(i) amends HOLA to exclude from the definition of “savings and loan holding company” a company that would otherwise fall within the definition solely by virtue of its control of an IHC. We submit that section 604(i) and section 626 therefore require that once an SLHC forms an IHC, any requirement to submit forms like the FR Y-6 or FR Y-10 to the Board applies only to the IHC itself and not to any company that controls the IHC. This interpretation is consistent with the plain language of section 604(i) and section 626 and with Congressional intent, since Congress adopted these provisions so that the Board’s regulatory and supervisory authority (including the authority to require SLHCs to prepare and submit forms like the FR Y-6, 10 and 11) would be appropriately limited with respect to a Grandfathered Unitary SLHC. Because any requirement to submit forms applies to the IHC itself rather than the SLHC, the Board should refrain from requiring a Grandfathered Unitary SLHC to submit the FR Y-6 or FR Y-10 report if it intends to require that SLHC to form an IHC in the future.

#### **V. Conclusion**

We thank the Board for the opportunity to comment. If you have any questions, please do not hesitate to contact me or Richard Foster at (202) 589-2424.



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